IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.3889 of 2006

Date of Decision: 18.12.2007.

Jarnail Singh

....Petitioner

Versus

State of Punjab & others.

....Respondents

CORAM: Hon'ble Mr. Justice J.S.Khehar.
Hon'ble Mr. Justice Sham Sunder.

Present: Mr. Pritam Saini, Advocate,
for the petitioner.
Mr. Gurminder Singh, Addl.A.G.,Punjab,
for respondents No.1 and 2.
Ms. Alka Chatrath, Advocate,
for respondent No.3.

J.S.KHEHAR,J(ORAL)

The petitioner was inducted into the Education Department of Union Territory, Chandigarh as a Science Master on 19.01.1973. He was confirmed against the aforesaid post in 1975.

While in the employment of the Union Territory, Chandigarh, the petitioner applied for appointment against the post of Block Development & Panchayats Officer. Having participated in the process of selection, the petitioner was selected by the Punjab Public Service Commission and recommended for appointment. Accordingly, the petitioner was issued an offer of appointment dated 31.08.1984. Having rendered service in the State of Punjab, the petitioner retired on attaining the age of superannuation on 30.06.2006. It is, therefore, apparent that the petitioner rendered service from the year 1973 to 1984 in the Union Territory, Chandigarh and thereafter from the year 1984 till the date of his retirement in the year 2006 in the State of Punjab.

Having retired from the service of the State of Punjab, the service rendered by the petitioner from 1984 till 2006 was treated as

qualifying service for the purpose of calculating the pension payable to the petitioner. It is the assertion of the learned counsel for the petitioner that the service in the Union Territory, Chandigarh from 1973 to 1984 should also be treated as qualifying service and that the said service should be added to the service rendered in the State of Punjab for the purpose of pension payable to the petitioner.

On the issue under reference, learned counsel for the petitioner, in order to substantiate his aforesaid claim, has placed reliance on the notification issued by the State of Punjab dated 20.05.1982 (Annexure P-11). Based on the aforestated notification, it is the vehement contention of the learned counsel for the petitioner that the service rendered by the petitioner in the Union Territory, Chandigarh should also be taken into consideration as qualifying service.

We have perused the notification dated 20.05.1982. Its perusal reveals that there is a reciprocal arrangement between the Government of India and State Government, so as to count as qualifying service, the service rendered by an employee in one or the other for purpose of pensionary benefits. It is not possible for us to accept the claim of the petitioner on the basis of notification dated 20.05.1982 on account of the fact that there is no such reciprocal arrangement between the Union Territory, Chandigarh and the State of Punjab as is envisaged by notification dated 20.05.1982. In fact, this is the pointed submission advanced at the hands of learned counsel for respondents No.1 and 2.

In order to over come the aforesaid submission advanced by the learned counsel for the respondents, learned counsel for the petitioner has invited this Court's attention to another notification dated 01.11.1966 (Annexure P-10), whereby the Administrator of the Union Territory, Chandigarh is the appointing authority for various classes of posts in the Union Territory of Chandigarh. It would be pertinent to mention that the

Administrator of the Union Territory of Chandigarh is also the Governor of the State of Punjab. It is the contention of the learned counsel for the petitioner that the administrative control of appointment to different classes of services in the Union Territory, Chandigarh are under the control of Administrator on account of the fact that he has been authorized to make rules relating to the mode of recruitment etc. to all classes of services in Union Territory, Chandigarh. According to learned counsel, the Administrator is nominated as such by the aforesaid notification dated 01.11.1966 issued by the Government of India and as such an inference should be drawn that the service rendered by the petitioner in the Union Territory of Chandigarh and State of Punjab is service under a common employer, and as such is countable towards the claim of the petitioner for pension.

Since, learned counsel for the petitioner has not been able to place on record any statutory rules, policy instructions or administrative order under which the employment rendered by the petitioner in the Union Territory, Chandigarh can be taken into consideration as qualifying service for determination of pensionary benefits payable to the petitioner by the State of Punjab, we are satisfied that the claim of the petitioner does not emerge from any right vested in him as against the State of Punjab for taking into consideration the services rendered by him in the Union Territory of Chandigarh as qualifying service for calculating pension.

We accordingly find no merit in the instant writ petition and the same is accordingly dismissed.

(J.S.KHEHAR)
JUDGE

December 18, 2007 **(SHAM SUNDER)**
nt **JUDGE**